IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 13439 of 2005

Between:

Ankadi Radhakrishna S/o Suryanarayana
R/o K. Munjavaram Village, P. Gannavaram Mandal of East Godavari District

..... PETITIONER

AND

1 The District Panchayat Officer, and Member Convener, District level Committee (Sand Auctions), East Godavari District, Kakinada.
2 The District Collector-cum-Chairman and Confirming Authority, District Level Committee (Sand Auctions) East Godavari District.kakinada
3 The Panchayat Secretary, K. Munjavaram P. Gannavaram Mandal, East Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more especially in nature of the mandamus declaring the action of 1st respondent in stopping the petitioner society from operating sand reach No. 37 K. Munjavaram of Gannavaram Mandal by issuing impugned telegraphic orders dt 1-6-2005 without passing any orders on the remission application of the petitioner Society dt 22-4-2005 as illegal, irrational and unjustified and pass such other and further orders as this Hon'ble Court may deem and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.UDAYA BHASKARA RAO

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORAL ORDER

Being aggrieved by the action of the 1st respondent-District Panchayat Officer and Member convener, stopping the petitioner from operating sand reach No.37, K.Munjavaram of Gannavaram Mandal, the petitioner-Sri Satyanarayana Agnikula Kshatriya Fishermen Sand Quarry and Boatsman Co-operative Society filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchayatraj and Rural Development for respondents.

The main grievance of the petitioner in this writ petition is that the respondents issued a notification, published in newspapers, to hold the auction for collection of seigniorage fee in river Godavari Reaches in East Godavari District and the auction was scheduled on 19-10-2004, the auction lease period for quarrying the sand is for one year and it will expire by 30-09-2005. Pursuant to the said notification, the 2nd respondent issued proceedings vide ROC No.3756/2004-A4, dated 20-10-2004 directing the petitioner-society to pay an amount of Rs.1,10,025/- towards 25% of the bid amount and the remaining shall be paid in three installments. Later, the petitioner-society paid the 2nd and 3rd installments within the time as mentioned in the confirmation order dated 27-10-2004. While the matter stood thus, due to Tsunami effect in the month of December,2004 the petitioner-society was forced to stop quarrying of sand from reach No.37 for a period of 10 days as the climatic circumstances prevailing at that time were not feasible and that the petitioner already paid three installments and only fourth instalment is due to be paid. Later, on 22-04-2005 petitioner submitted an application to the 2nd respondent-District Collector seeking remission of Rs.50,400/- from the bid amount as the petitioner-society could not carry the sand for 36 days. Moreover, the petitioner submitted the said representation even 38 days prior to the due date for payment of 4th instalment i.e., 31-05-05, but the said representation was pending consideration. Later the 1st respondent passed an order, which is impugned in this writ petition, directing the 3rd respondent to stop sand quarrying at reach No.37 as the petitioner-society failed to pay the 4th instalment amount.

Now, the learned counsel for the petitioner across the Bar states that the petitioner is willing to pay the 4th instalment within two weeks from today.

Having regard to the facts and circumstances of the case and considering the plea of the learned counsel for the petitioner, the writ petition is disposed of with a direction to the petitioner to pay the 4th instalment within 10 days from today and on such payment, the respondents are directed to allow the petitioner for quarrying of sand from Reach No.37 K.Munjuavaram of Gannavaram Mandal, East Godavari District and further the 2nd respondent is directed to dispose of the representation of the petitioner dated 22-04-2005, according to law, within a period of two (2) weeks from the date of receipt of a copy of this order. In the circumstances, there shall be no order as to costs.

_____

ELIPE DHARMA RAO,J

23RD JUNE 2005

*TSNR

To

1 The District Panchayat Officer, and Member Convener, District level Committee (Sand Auctions), East Godavari District, Kakinada.
2 The District Collector-cum-Chairman and Confirming Authority, District Level Committee (Sand Auctions) East Godavari District.Kakinada
3 The Panchayat Secretary, K. Munjavaram P. Gannavaram Mandal, East Godavari District

4. Two CCS to G.P for Panchayatraj and Rural Development, High Court Buildings, Hyderabad(OUT)

5. Two C.D.Copies.